

Commission Meeting Minutes
October 17, 2014

Acting Chairman McDonough called the meeting to order at 12:44 PM. He then acknowledged the other Commissioners present: Commissioners Philip Brown, John Langan, James Machado, Donald Marquis, and Robert McCarthy.

Acting Chairman McDonough announced that the Commission meeting is being tape recorded which will be noted in the minutes, that a stenographer is taking notes, and asked that everyone state their names prior to speaking.

PERAC Staff Present: Executive Director Joseph Connarton, Deputy Executive Director Joseph Martin, General Counsel/Deputy Director John Parsons, Deputy General Counsel/Managing Attorney Judith Corrigan, Senior Actuary James Lamenza, Senior Associate General Counsel Ken Hill, Associate General Counsel Patrick Charles, Director of Strategic Planning Michael DeVito, Compliance Officer Thomas O'Donnell, Compliance Counsel Derek Moitoso, Compliance Analyst Cheryl Johnson, Chief Auditor Harold Chadwick, Director of Administrative Services Caroline Carcia, and Senior Executive Assistant Kim Boisvert.

The following guests were welcomed: Nick Favorito from the State Retirement Board, Sean Neilon from the Massachusetts Teachers' Retirement Board, Tom Gibson from the Belmont and Middlesex County Retirement Boards, Patrick Brock from the Hampshire County Retirement Board, Timothy Smyth and Padriac Lydon from the Boston Retirement Board, Kimberly Fletcher from the Newton Retirement Board, Katie McCue from the Massachusetts Municipal Association ("MMA"), Frank Valeri, Ralph White and Shawn Duhamel from the Massachusetts Retirees Association, Denis Devine from MACRS, Paul Shanley from Amity Insurance, former Commissioner Paul Doane, and Anne Bohan from Doris Wong Associates.

Commissioner Machado made a motion to adopt the minutes of the September 17, 2014 meeting as presented. Commissioner Brown seconded the motion and the minutes were unanimously adopted.

Executive Session

It was decided that an Executive Session would be held after the Executive Director's Report.

Legal Update

Mr. Hill updated the Commission on the Hull Retirement Board v. CRAB, Leary & PERAC, Massachusetts Appeals Court case 13-P-1587.

Acting Chairman McDonough made a motion to refer this case to the Administrative Sub-Committee meeting to review PERAC's interpretation regarding the effective date of retirement in light of settlement agreements. Commissioner McCarthy seconded the motion and it was adopted.

Ms. Corrigan reported on Ouellette v. CRAB, PERAC & Haverhill Retirement Board, Massachusetts Appeals Court No. 13-P-291.

Mr. Moitoso updated the Commission on Daley v. Plymouth Retirement Board and PERAC, CR-13-409 (CRAB 2014). He stated that Daley could appeal within 30 days (PERAC could within 60 days file a case in Appeals Court).

Legislative Update

Mr. DeVito reported that a bill regarding legislation Granting PERAC Subpoena Power for Hearings Conducted Under Section 15(7), will be filed per the Commission's prior approval. He stated that PERAC has also filed a request for \$25,000 to be appropriated in the Supplementary Budget to finance the OPEB Audits.

Discussion began regarding concurrent benefits and multiple beneficiaries receiving benefits from one member. Staff had prepared proposed legislation regarding this issue.

Commissioner McCarthy made a motion to forward the proposed language to the Legislative Sub-Committee Meeting. Commissioner Machado seconded the motion.

Commissioner Brown made a motion to table that motion until the language has been discussed. Commissioner Langan seconded and the motion to table was adopted.

Three options, as provided, were discussed as follows: Alternative A - split the benefit between a present spouse and a former spouse with a QDRO, Alternative B - return to status quo (prior to the DALA decision as in Larrison), and Alternative C - require a one year minimum marriage prior to a spouse being eligible to collect a Section 9. The one year requirement would only attach for a member married to a second or subsequent spouse.

Acting Chairman McDonough called the motion to send this language back to the Legislative Sub-Committee and the motion was adopted with all Commissioners voting to send it to the Sub-Committee with Acting Chairman McDonough voting against it.

Discussion followed as it pertains to the State Police disability process under Chapter 22C, Section 24A. Draft legislation was included in the package which would bring the State Police under the same standards for disability and evaluation by a regional medical panel as other members of retirement systems. This was brought to the Commission's attention after the presentation from Russell Fiore at the September 11, 2014 meeting.

Commissioner McCarthy made a motion to forward the proposed language to the Legislative Sub-Committee. Commissioner Brown seconded the motion.

Commissioner McCarthy suggested discussing this issue with the State Police Colonel and State Police Association of Massachusetts ("SPAM") prior to filing legislation.

Acting Chairman McDonough believes that there is a lack of authority and no recourse for any party to question an inappropriate disability retirement or the State Police RTS process and that the legislation should be filed.

Acting Chairman McDonough called the motion on the table to forward the proposed language to the Legislative Sub-Committee Meeting. The motion was adopted with all Commissioners voting in favor and Acting Chairman McDonough voted against it.

Audit Update

Mr. Chadwick reported that audits are currently occurring at the Mass Housing, Stoneham, Wakefield, and West Springfield Retirement Boards. He stated that an exit conference is pending for the Melrose Retirement Board. Internal reviews are being conducted on the Attleboro, Blue Hills, Chicopee, Fall River, Lowell, Methuen, New Bedford, Plymouth (Town), State, Teachers, and Woburn Retirement Boards audit reports. He reported that he is waiting for responses from the Athol, Minuteman Regional, North Attleboro, Peabody, and Webster Retirement Boards. Mr. Chadwick told the Commission that the Beverly (no findings) and Franklin Regional Retirement Board audit reports have been posted on the PERAC Web Page since the last Commission meeting and explained their respective findings. Finally, Mr. Chadwick reported that a follow up audit had been completed at the Gardner Retirement Board.

There was a concern regarding a response from the Franklin Regional Retirement System as it pertains to buying back time and whether the system would follow PERAC's recommendation or not. Mr. Parsons stated that PERAC will follow up with the System to be sure they have followed our recommendation.

Commissioner McCarthy asked for an update on the Athol Retirement System.

Mr. Chadwick stated that the checks are being distributed and their cash books are up to date and are being monitored.

Mr. Connarton stated that the Executive Director from the Worcester Regional Retirement System (WRRS) has provided a good timeline regarding the next steps, however, the legislation has not yet been signed. He then stated that although PERAC just audited the Athol Retirement System, it will do so again prior to transferring everything over to the WRRS.

Compliance Update

Mr. O'Donnell introduced and welcomed Cheryl Johnson, CFA, and our new Compliance Analyst. Ms. Johnson is a graduate of Bentley University and has previous professional experience with Kidder, Peabody and Company, Loomis Sayles and Company, and MONY.

Mr. O'Donnell stated that the educational program has been in effect for three years now. He explained the education section of the law that each board member must earn 18 credits over a three year period. If the member does not meet their obligation he/she will no longer be able to serve on any retirement system. He explained that there are about 18 members who are having issues meeting this requirement either they haven't earned enough credits or are just no longer interested in serving on a system and will be stepping down. The Compliance Unit is, however, reaching out to these individuals to fully explain the law. Finally, he stated that there are many educational opportunities for board members to earn credits.

Mr. O'Donnell then reported that over 1190 disclosures have been received, and there are still just a couple of vendors that have not responded. The vendors that have not responded may have gone out of business but the Compliance Unit is investigating this situation. The next step is to disbar those vendors that have just not responded.

Executive Director's Report

Mr. Connarton reported on staff activities since the last Commission meeting. He stated that the 10th Anniversary Emerging Issues Forum at the College of the Holy Cross in Worcester was held on Thursday, September 18, 2014. He stated that 340 individuals registered, however, 276 actually attended, the largest attendance ever. PERAC has received much feedback to assist in the planning for next year.

Mr. Connarton updated the Commission that in accordance with Commission Policy Number 99-001, the Commission's final budget and actual spending numbers have been distributed as required to the Public Service Committee, Ways and Means, and Administration and Finance. He stated that PERAC had an unexpended balance of \$462,957 for fiscal year 2014.

Mr. Connarton then updated the Commission regarding the educational credit issue involving Mr. Philip Lemnios, Board Member of the Hull Retirement Board. Mr. Lemnios has decided to withdraw his request to address the Commission as he no longer intends to serve on the Board upon completion of his term.

Mr. Connarton updated the Commission about the article and the editorial in the *Boston Globe*, and Denis Devine's, President of MACRS, well written response to the editor regarding Timothy McDaid, Former executive director of the Maynard Retirement System. He continued that after the Maynard audit, PERAC updated the internal control questionnaire and the audit programs. He stated that this is a good opportunity for the Audit / Fraud Sub-Committee to meet in the near future as he believes there are a few issues to discuss.

Mr. Connarton reported that the MACRS event was successful and that several PERAC staff provided various presentations. There were credits awarded to board members in attendance. The training requirements and attendance has been very positive, but not without some angst.

Commissioner Machado suggested that an Audit / Fraud Sub-Committee be scheduled.

Acting Chairman McDonough stated that the comments in the *Boston Globe* do make some allegations that call into question how well PERAC fulfills its responsibilities and believes that we really should take a look at the audit process.

Acting Chairman McDonough made a motion to refer this issue to the Audit / Fraud Sub-Committee for its deliberation and consideration. Commissioner Brown seconded the motion and the motion was adopted.

Commissioner McCarthy asked for an update on the Chelsea situation.

Ms. Corrigan reported that the Attorney General filed a motion to dismiss; however, we haven't heard anything as of this time. She then stated that Mr. McLaughlin's attorney made a

voluminous public records request and has just sent in a check to cover the expenses of providing the information requested.

Mr. Connarton reported on Policy Number 97-006 the "Election of the Seventh Member" and that the position has been posted on the website. He has distributed three (3) resumes to the Commissioners for discussion and voting this day.

Acting Chairman McDonough stated that Commissioners McCarthy and Langan nominated him for the position. He stated that he is withdrawing his application and not accepting the nomination. He thanked his colleagues for the nomination and reported that he would continue to sit as Acting Chairman as long as the process takes to be resolved.

Mr. Connarton stated that he has spoken to the Clerk of the House and that Robert's Rules of Order requires four (4) votes for one candidate in order for that candidate to be elected Chair.

Acting Chairman McDonough gave both individuals vying to be Chairman an opportunity to address the Commission.

Commissioner Philip Brown and former Commissioner Paul Doane each made presentations to the Commission and allowed time for some questions. However, there were no questions.

After a brief discussion between the Commissioners and the Executive Director, it was decided to vote on the candidates in alphabetical order.

Commissioner Machado made a motion to appoint Philip Brown to the position of Chairman and Seventh Member for the unexpired term through November 7, 2016. Commissioner Langan seconded the motion.

Acting Chairman Gerald McDonough took a roll call vote as follows: Commissioners Philip Brown YES, John Langan YES, James Machado YES, Donald Marquis ABSTAIN, Robert McCarthy YES, and Gerald McDonough ABSTAIN.

The motion was adopted with Commissioners McDonough and Marquis abstaining, and Commissioner Brown was selected as the Chairman.

On behalf of the Commission, Commissioner McCarthy thanked former Senator and Commissioner Paul Doane for his service to the Commonwealth and to the Commission.

Acting Chairman McDonough reported that this is the last meeting for Commissioner Marquis, who has been with the Commission since its inception and a sincere supporter of PERAC and the pension systems. On behalf of the Commission, he thanked Commissioner Marquis for his service and his contributions.

Commissioner Marquis thanked Acting Chairman McDonough for the kind words and stated that it has been his pleasure to serve and he will miss this Commission.

Executive Session

At 2:13 PM Acting Chairman McDonough called for a roll call vote of the Commission to go into Executive Session to discuss investigatory materials necessarily compiled out of the public view by law enforcement or other investigatory officials, and further, to maintain the statutory confidentiality protections afforded retirement board members pursuant to Chapter 32, Section 20C, the disclosure of which materials would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest.

Acting Chairman Gerald McDonough YES, Commissioners Philip Brown YES, John Langan YES, James Machado YES, Donald Marquis YES, and Robert McCarthy YES.

Acting Chairman McDonough announced that the Commission will reconvene in open session after the completion of the Executive Session and called for a brief break.

At 2:35 PM the Commission went into Executive Session.

A roll call vote was taken in Executive Session to return to the regular order of business and to adjourn the Executive Session at 2:55 PM.

Other Business

The Commissioners discussed the next Commission meeting and decided to combine the November and December meetings. It was decided to have the next Commission meeting on Thursday, December 4, 2014 at 2:30 PM.

Commissioner Machado made a motion to adjourn. Commissioner Brown seconded the motion, and the motion was adopted. The meeting adjourned at 3:00 PM.

Commission Meeting Documents

Commission Agenda for the meeting for October 17, 2014

Commission Minutes for September 11, 2014

Legal Update

Memorandums regarding: Hull Retirement Board v. CRAB, Leary & PERAC, Massachusetts Appeals Court case 13-P-1587; Ouellette v. CRAB, PERAC & Haverhill Retirement Board, Massachusetts Appeals Court No. 13-P-291; and Daley v. Plymouth Retirement Board and PERAC, CR-13-409 (CRAB 2014)

Legislative Update

Monthly Legislative Agenda and bullet points outlining legislation

Letter and Legislation sent to Chairman Dempsey and Brewer regarding OPEB

Legislation for Commission consideration regarding State Police and Concurrent Benefits

Audit Update

Recent PERAC Audit Findings cover sheet and the respective audit findings

Executive Director's Report

Updated Staff Activities Memo

Memo and Resumes to the Commission regarding Policy Number 97-006

Policy Number 99-001 with letters and actual spending for Fiscal Year 2014

Boston Globe article and editorial regarding Timothy McDaid of the Maynard Retirement System

Other Documents

NY Times article *Bankruptcy Judge in California Challenges Sanctity of Pensions*

Distributed at the Meeting

Daley v. Plymouth Retirement Board and PERAC, CR-13-409 (CRAB 2014)

Approved:



Philip Brown, Chairman
Public Employee Retirement
Administration Commission